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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/839,001	04/20/2001	Harald Apfelthaler	KWO-17702/01	2739

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 05/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/839,001

Applicant(s)  
Harald Apfelthaler

Examiner  
YVONNE M. HORTON

Art Unit  
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Feb 27, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Apr 20, 2001 is/are a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification details that the distance between the inner walls become smaller from the upper to the bottom end of the plug; however, claim 18 claims that the teeth become small from the upper to the bottom end of the plug. Thus, there is antecedent basis for the teeth becoming smaller from the upper to the bottom end of the plug. Until further clarification, claim 18 has been examined with the slot becoming smaller from the upper to the bottom end. Clarification and correction is required.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “teeth becoming smaller from the upper to the bottom end of the plug” must be shown or the feature(s) canceled from the claim(s).

No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "can be" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

In claim 14, it is not clear if the longitudinal slot has the "plurality of spring elements" or if it is the body that has the spring elements. Until further clarification, the claim has been examined as the body having the spring elements.

***Claim Rejections - 35 USC § 102***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1-6,11,14,15 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #3,766,698 to DALLEN. DALLEN discloses the use of a plug (32) in combination with a muntin (30) having an outer surface (OS, colored blue), an end (E), a hollow space (colored red), and inner walls (34,36), see the marked attachment; wherein, the plug (32)

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includes a body (50) having a longitudinal slot (134), column 6, line 33-39 and column 7, line 20-30, that fits into the hollow space (colored red) of the muntin (30) and a flange (52) that is positioned on the outer surface (colored blue) of the muntin (30) and the plug body (50) press fits on the inner walls (34,36) of the muntin (30), column 6, line 33-39. In reference to claims 2-4, the slot (134) is coaxially aligned with the plug body (50); penetrates the plug body (50), see Figure 4; and receives a screw (114) that spreads apart the body (50), column 6, lines 33-39. Regarding claims 5,6,11 and 15, the slot (134) has a width/recess (90) at the upper end of the plug (32) different from the width (similar to 134) at the bottom end; wherein, the width/recess (90) is a groove that further includes a portion (92) also wider/greater than the width of the slot (134). In further regards to claims 14 and 19, the longitudinal slot (134) is coaxially aligned with the plug (32) and the body (50) includes a plurality of spring elements (56) extending therefrom that engage the inner walls (34,36) of the muntin (30).

***Claim Rejections - 35 USC § 103***

7. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

8. Claims 7-10 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #3,766,698 to DALLEN in view of US Patent #5,312,215 to ANQUETIN. DALLEN discloses the basic claimed muntin and plug assembly except for the walls of the longitudinal slot being slotted and tapering from the upper end of the slot to the bottom of the slot. In reference to

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claims 7,8,16 and 17, ANQUETIN teaches the use of a plug member including a longitudinal slot (14) having slotted walls (18) and teeth (16). Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the slot of DALLEEN with the slotted walls and teeth of ANQUETIN in order to increase the frictional engagement between the plug, the fastener and the muntin, while also improving the press-fit of the plug against the inner walls of the muntin. Regarding claims 9 and 18, DALLEEN discloses the basic claimed plug except for explicitly disclosing that the slot get smaller. The slot (134) of DALLEEN opens to a widened/recessed portion (90,92) and inherently includes the wide/recessed portion (90,92). Thus, the slot (134) gets smaller from the upper end of the plug (32), near the flange (52), to the bottom end. Regarding claim 10, ANQUETIN teaches that the screw (48) engages the teeth (16). Hence, in reference to DALLEEN, as modified by ANQUETIN, the teeth (16) of ANQUETIN must also engage the screw (114) of DALLEEN.

***Allowable Subject Matter***

9. Claims 12 and 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the use refuse received within the recess at the upper end of the slot.

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*Response to Arguments*

11. Applicant's arguments with respect to claims 1-13 have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

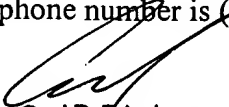
12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

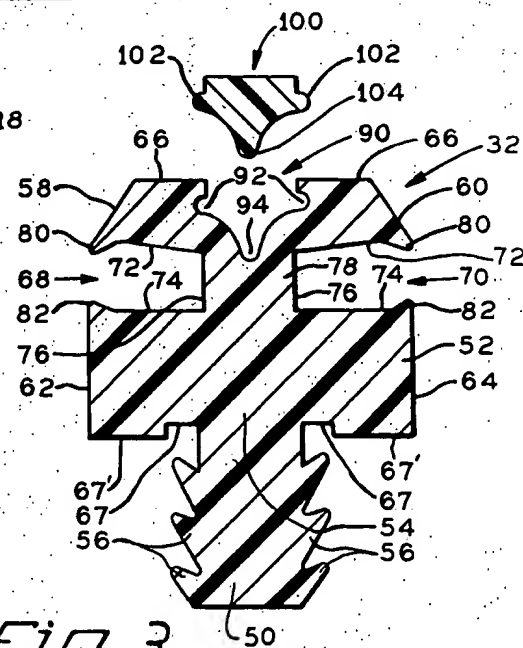
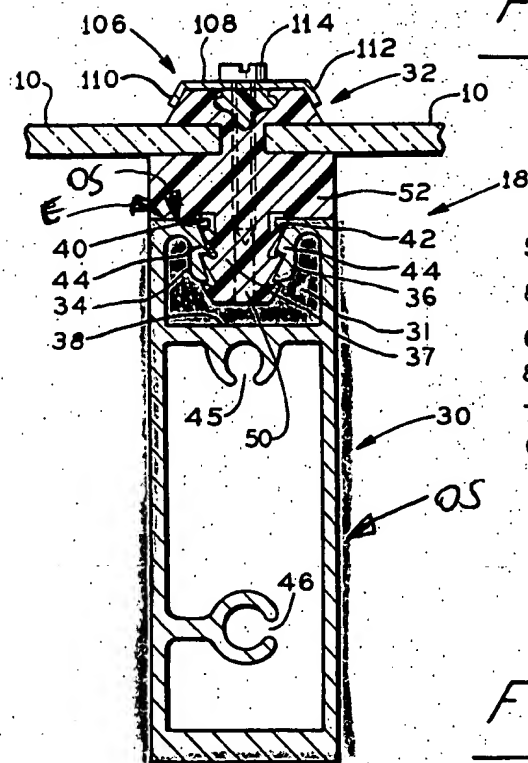
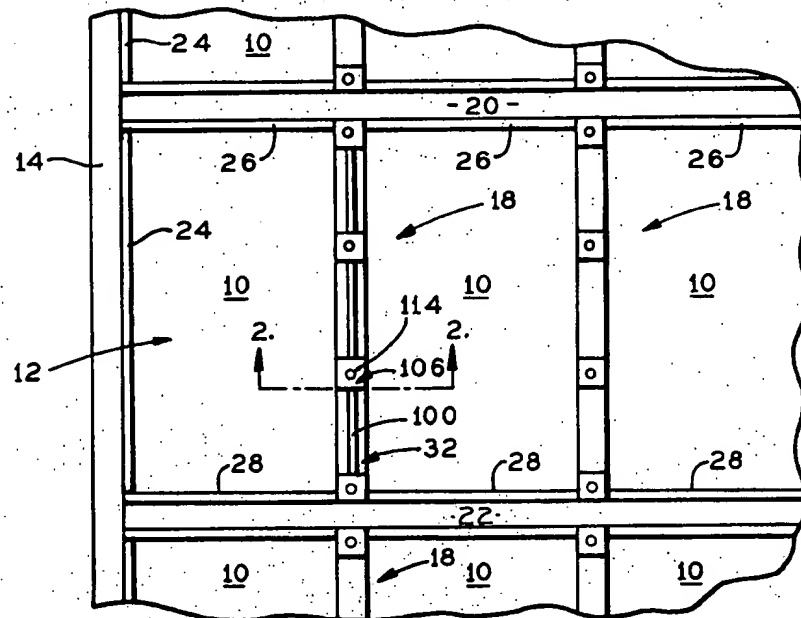
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

YMH

May 15, 2003

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600



INVENTOR.  
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